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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,736	10/29/2003	Eugene Joseph Pancheri	9400	7726

27752 7590 07/25/2007

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EXAMINER	
LU, JIPING	

ART UNIT	PAPER NUMBER
3749	

MAIL DATE	DELIVERY MODE
07/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ED

Office Action Summary	Application No.	Applicant(s)	
	10/697,736	PANCHERI ET AL.	
	Examiner	Art Unit	
	Jiping Lu	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 May 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,18-25 and 6016* is/are pending in the application.

4a) Of the above claim(s) *11-16, 18-25* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4 and 6-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/8/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Status

1. Claims 1-4, 6-16 and 18-25 are now in the case and subject to restriction requirement (35 USC 121). Claims 5 and 17 have been cancelled.

Election/Restrictions

2. Applicant's continuing traversal of the election is noted but not persuasive. The traversal is on the ground(s) that claims of Group I and Group II are not restrictable as combination and subcombination. This is not found persuasive because the applicant now argues that the elected claims may be used for treatment of sandy or particulate material as the example given by the examiner. Therefore, the requirement of MPEP 806.05c is not met. The examiner disagrees because the examiner's example was NOT of the claims. The example was given to show the subcombination has its own separate utility or in other combination to satisfy the condition of MPEP 806.05c. The examiner gives another example that the claimed subcombination has its own separate utility or used in other combination. The broadly claimed subcombination in claims 11 and 21 could also be used as a burner attached to a bottle of preheated liquid fuel. It is common in the art that dispenser has a structure of burner or a structure of showerhead. Anytime prior to the close of the prosecution, if the applicant is willing to add all limitations of subcombination claims 11 and 21 in combination claim 1, then, the examiner will be happy to withdraw the restriction.

The requirement is still deemed proper and was made Final in the last Office action.

3. Claims 11-16, 18-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/6/06.

4. This application contains claims11-16, 18-25 drawn to an invention nonelected with traverse in the reply filed on 10/6/06. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-2, 4, 6-10 are under 35 U.S.C. 102(b) as being anticipated by Staub et al (U. S. Pat. 5,980,583).

Staub et al show a system for treating fabrics comprising a fabric article drying appliance 12, a removable fabric article treating device 50-74, a heater (Col. 7, line 26) for heating benefit composition, a dispensing apparatus 50, and a door 18 (col. 5, limes 1-63; col. 7, lines 24-30 and Figs. 1-5) which are arranged same as claimed. As for the limitations, "wherein said benefit composition is heated by an exothermic reaction wherein said exothermic reaction is a metal oxidation reaction, a saturated salt reaction, or a combination thereof" in claim 1, last three lines and claims 6-10, they are viewed as functional or intended use limitations. As MPEP 2114 states, "[a] claim containing a "recitation with respect to the manner in which a claimed

apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim". In this case, the limitations above do add not any structural limitations to the claims and Staub discloses all the structural limitations.

7. Claims 1-2, 4, 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenreich et al. (U. S. Pat. 3,180,037).

Kenreich shows a system for treating fabrics comprising a fabric article drying appliance (i.e. laundry drier, col. 1, lines 5-10), a fabric article treating device 21-31, a heater 20, a dispensing apparatus 131, a door (not shown, inherent for laundry drier) which are arranged same as claimed. The benefit composition is heated by the stream of heated air (col. 2, lines 20-25). As for the limitations, "wherein said benefit composition is heated by an exothermic reaction wherein said exothermic reaction is a metal oxidation reaction, a saturated salt reaction, or a combination thereof" in claim 1, last three lines, and claims 6-10, they are viewed as functional or intended use limitations. As MPEP 2114 states, "[a] claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim". In this case, the limitations above do add not any structural limitations to the claims and Kenreich et al. discloses all the structural limitations.

Claim Rejections - 35 USC § 103

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Staub et al (U. S. Pat. 5,980,583) or Kenreich et al. (U. S. Pat. 3,180,037).

The fabrics treating system of Staub et al or Kenreich et al. as above includes all that is recited in claims3 except for the fabric article treating device is integral with the dryer closure structure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the fabric article treating device of Staub et al. or Kenreich et al. integral with the closure structure, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. In re Larson, 144 USPQ 347,349 (CCPA 1965).

Response to Arguments

10. Applicant's arguments filed 5/7/07 have been fully considered but they are not persuasive. First, broad claims fail to structurally define over the art. Broad claims are structurally met by the prior art references. Broad claim 1 merely calls for a drying appliance with attached device containing a heated benefit composition and a dispenser to dispense the heated composition. Staub clearly shows a drying appliance 12 with attached device 50-74 containing a heated benefit composition and a dispenser 50 to dispense the heated composition. Kenreich clearly shows a drying appliance 12 with attached device 25-31 containing a heated 20 benefit composition and a dispenser 131 to dispense the heated composition. The applicant also argues that the prior art references do not show the intended use of "heat by an exothermic reaction wherein said exothermic reaction is a metal oxidation reaction, a saturated salt reaction, or a combination thereof statement". This line of arguments is not persuasive to overcome the

rejections. As MPEP 2114 states, "[a] claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim". In this case, the limitations above do not add any structural limitations to the claims and Staub and Kenreich disclose all the structural limitations. Lastly, the applicant argues there is no teaching in the prior art references to show such "integral" structure. The examiner is not convinced that the novelty lies with "integral" structure without showing any new or unexpected results over the prior art. Therefore, claim 3 remains rejected for the same reason as stated above. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the fabric article treating device of Staub et al. or Kenreich et al. integral with the closure structure, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. In re Larson, 144 USPQ 347,349 (CCPA 1965).

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, STEVEN B. MCALLISTER can be reached on 571 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jiping Lu
Primary Examiner
Art Unit 3749

J. L.